HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION No. 509 OF 2006

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Between:

K.V.S. Anand Babu

……Petitioner

And

The Government of Andhra Pradesh,

represented by its Secretary, Youth

Advancement, Tourism and Culture

(Youth Services and Sports), Department,

Secretariat, Secretariat Buildings,

Hyderabad and five others

……Respondents

:: ORDER ::

Counsel for the Petitioner : Sri Unnam Muralidhar

Rao

Counsel for Respondent No.1 : Government Pleader for

Sports and Youth

Counsel for Respondent Nos.2 to 4 : Sri K. Janardhan Rao

Counsel for Respondent Nos.5 and 6 : Sri Ravi Shanker

Jandhyala

Dated: 17-04-2006

Per G.S. SINGHVI, CJ

In this petition filed as a piece of public interest litigation, the petitioner has prayed for grant of a declaration that action of respondent Nos.1 and 2 to allot G.M.C Balayogi Main Athletic Stadium at Gachibowli to respondent No.6 without collecting maintenance charges, security deposit, power consumption charges, water charges, A.C charges and without obtaining caution deposit charges and bank guarantee and without insuring the stadium is illegal and violative of the guidelines framed by the Sports Authority of Andhra Pradesh. Another prayer made in the writ petition is to issue a direction to the Vice-Chairman and Managing Director of Sports Authority of Andhra Pradesh (respondent No.2) not to allot sports stadiums for non-sporting activities.

We have heard learned counsel for the parties at length and perused the record. We have also gone through the decision of the Supreme Court in **J. Jayalalitha v. Govt. of Tamil Nadu** on which reliance has been placed by learned counsel for the petitioner.

Sri K. Janardhan Rao , learned counsel for Sports Authority of Andhra Pradesh,

invited our attention to Section 4(h) of the Andhra Pradesh Sports Authorities Act, 1988 (for short 'the Act') and submitted that in future the sports stadiums in the State will not be allotted except in accordance with the rules framed under Section 23 of the Act.

In this view of the matter, we do not consider it necessary to pass any order in the matter of allotment of the sports stadiums, but make it clear that in future all sports stadiums in the State of Andhra Pradesh should be used for non sporting activities only after framing of the Rules by the State Government under Section 23 of the Act and if any allotment is made in violation of said rules, then the person making allotment will be personally liable for violating the undertaking given before the Court.

The issue which remains to be considered is whether respondent Nos.1 and 2 committed any illegality in allotting G.M.C. Balayogi Stadium, Gachibowli to respondent No.6 for plenary session of All India Congress Committee without collecting the necessary charges and without insuring the stadium and the same calls for judicial intervention. In this context, it is apposite to mention that while the petitioner has alleged that possession of the stadium was handed over to respondent No.6 and the latter did not pay various charges fixed by respondent No.2 and that use of the stadium by respondent No.6 has resulted in damage to the synthetic track, respondent No.2 has denied the allegations. The stand taken by respondent No.2 is amply reflected in paragraphs 5 to 11 of the affidavit filed by him. These paragraphs read as under:

5. I submit that in view of the fact that the Sports Complex was in the possession of APCC i.e. Respondent No.6 from 3.12.2005 to 8.2.2006 taking all the precautionary steps to safeguard the same, the AICC Plenary was conducted and held from 21.1.2006 to 23.1.2006, APCC has already paid Rs.45.00 lakhs (Rupees forty five lakhs only) to Sports Authority of Andhra Pradesh, the total amount of expenditure was Rs.45,72892/-, the Respondent No.2 wrote a letter to Respondent NO.6 for payment of the balance amount of Rs.72,892/- and the Synthetic track is not damaged at any place after removal of iron plates, Ply/Iron sheets/Wooden planks and synthetic carpets, the details of which are given hereunder in the foregoing paragraphs of the affidavit, the reliefs sought for in para 30(a) of the affidavit and relief (a), and directions in paras 23, 24, 25, 26, 27 sought for by the petitioner in the writ petition are no longer subsisting and worked themselves out.

6. I except admitting the sections 2(1), 4 and 6 of Act 4 of 1988 referred to in

paras 4 and 5 of the affidavit, specifically deny that the respondents 1 and 2 have failed to perform their functions in accordance with the scheme and provisions of the said Act and put the petitioner to strict proof of the same. I submit that the said averments apart from being false, baseless are vague, loose, lacking in particulars, apart from being motivated. The petitioner has not averred or alleged any mala fides or motives on the part of the Vice Chairman and Managing Director of Sports Authority of Andhra Pradesh or the Secretary to Government, Youth Advancement, Tourism and Culture (Youth Services & Sports) Department, Government of Andhra Pradesh by name in the entire writ petition. I submit that the powers and functions of Sports Authority are mentioned in Section 4 of Act 4 of 1988:

Section 4 reads as follows:

The Sports Authority shall be the principal policy formulating body and shall have the following powers and functions:

Section 4(h): “to raise finances by leasing out the properties owned by or vested in it in the manner prescribed”.

Section 4(n): “to exercise such other powers and perform such other functions as may be conferred or enjoined upon it by or under this Act”.

7. The expert committee constituted by Sports Authority of Andhra Pradesh has submitted a note dated 14.10.2004 on the “pay and play scheme” giving the guidelines for allotment of Sports Infrastructure to non-sporting activities also. The petitioner has already filed the same as material paper 10 at pages 24 to 31. The petitioner admits the framing of guidelines in paras 16 and 20 of the affidavit. Accordingly, the Sports Authority of Andhra Pradesh was allotting GMC Balayogi Athletics Stadium to non-sporting activities by collecting the maintenance charges from 7.4.2005 to 5.10.2005. Formerly, as Sports Authority of India was allotting their Athletic Stadium to Non-sporting activities, the Sports Authority of Andhra Pradesh has also allotted the GMC Balayogi Athletics stadium from 5.2.2003 to 7.2.2003 and 1.7.2003 and collected the charges for using the said stadium. I am filing herewith the statement showing the details of allotment of GMC Balayogi Athletics Stadium to Non-sporting activities and collection of charges for using the same for perusal. As a matter of fact, nobody have ever questioned or challenged the Sports Authority of Andhra Pradesh allotting the said stadium to Non-sporting events from 5.2.2003 to 5.10.2005 as referred to above. The petitioner except vaguely stating that the respondent No.2 has illegally framed the guidelines and is challenging the same in para 16 of the affidavit has

not sought a relief in the writ petition to strike down the said guidelines on the ground that the stadium or the Synthetic track was damaged by user for Non-sporting activities or any other ground whatsoever.

8. The counsel for the petitioner has submitted an application on 3.1.2006 for obtaining certified copies of documents by paying Rs.28/- towards charges and an application dated 4.1.2006 for inspection of records, he was permitted to inspect the entire file pertaining to GMCB Athletic Stadium – AICC plenary works on 4.1.2006, and the information and certified copies of the documents were furnished on 16.1.2006 by Sports Authority of Andhra Pradesh as admitted in para 14 of the affidavit and the additional material papers filed by the petitioner.

9. The averments in paras 7, 20 and 22 of the affidavit that the respondent No.2 has delivered possession of the Stadium to APCC i.e. Respondent No.6 in the last week of November, 2005 or 27.11.2005 and work was commenced since then is incorrect.

10. The facts mentioned in the newspapers referred to in para 13 of the affidavit and 3.2.2006 are not only incorrect but also made without any truth or basis.

11. The petitioner except referring to correspondence in paras 6, 7, 8, 9, 11, 12 and 21 of the affidavit has not stated the facts completely and correctly. I am giving hereunder all the details from the date of giving possession to respondent No.6 and handing over of possession of the Stadium by respondent No.6 to Sports Authority of Andhra Pradesh and also I am filing the relevant papers which are not already filed by the petitioner. The respondent No.2 has not violated any of the guidelines as averred in paras 16 to 21 of the guidelines.

i. On 3.9.2005 the respondent No.6 has written a letter to respondent No.2 to allot the stadium and sports complex for plenary session to be held from 20.10.2005 to 22.10.2005.

ii. On 14.11.2005 the entire Sports Complex, Gachibowli was insured with the Oriental Insurance Company Ltd.,

iii. By letters dated 15.11.2005 and 26.11.2005 it is evident that Sports Authority of Andhra Pradesh has taken the services of M/s Hue Designers Pvt. Ltd., to have consultancy in upgradation of infrastructure and renovation of the rooms in GMC Balayogi Stadium in view of the visit of a team of Officers for World Military Games 2007.

iv. As the Respondent No.6 requested the respondent No.2 to permit them to perform puja on 3.12.2005 prior to the

beginning of the work to be undertaken for the plenary, the respondent No.6 was permitted accordingly. As such the rent and maintenance charges were collected by respondent No.2 from respondent No.6 from 3.12.2005 onwards till the date of handing over possession on 8.2.2006.

v. The services of extra labour from Swayam Krushi Society were engaged for maintenance of external and internal parts of the stadia in view of the visit of a team of officers for World Military Games 2007. Extra labour was also engaged at the behest of APCC's request for the period 20th to 24thJanuary, 2006 for which payment was made from APCC.

vi. Sports Authority of Andhra Pradesh has written a letter dated 5.12.2005 to respondent No.6 giving the tariff and safety measures to be taken up by APCC to prevent any damage to the Sports Infrastructure.

vii. STUP Consultants Pvt. Ltd., by letter dated 10.12.2005 has given the safety measures and precautions to be taken for protecting the Synthetic track along with a sketch.

viii. The APCC has written a letter dated 12.12.2005 to the respondent No.2 stating that they are agreeable to the terms and conditions contained in the letter of respondent No.2 dated 5.12.2005 and that the tentative dates for the AICC plenary are from 20.1.2006 to 24.1.2006.

ix. By letters dated 13.12.2005 and 23.12.2005 Sports Authority of Andhra Pradesh has deputed officers and coaches to supervise the work and also to take necessary precautionary measures for safeguarding the Sports Infrastructure including the Synthetic track. The respondent No.3 was supervising right from the beginning till the handing over possession of Stadia by APCC to Sports Authority of Andhra Pradesh.

x. By letter dated 29.12.2005 the APCC has sent a cheque for Rs.25.00 lakhs as advance for rental payment of the Stadium and the said cheque was deposited on 7.1.2006.

xi. By letter dated 3.1.2006 the respondent No.2 while acknowledging the receipt of the cheque for Rs.25.00

lakhs towards advance payment for allotting sports complex at Gachibowli for All India Congress Committee Plenary session has given the particulars of maintenance charges for Rs.25.10 lakhs and further requested to instruct the concerned to safeguard the Sports Infrastructure which is World Class.

xii. On 4.1.2006 Sports Authority of Andhra Pradesh has permitted the counsel for the petitioner to inspect the entire file pertaining to the GMC Balayogi Main Athletics Stadium – AICC plenary works, though as per Section 7 of Information Act as requested by the petitioner, the respondent No.2 had 30 days of time to furnish information.

xiii. By letter dated 7.1.2006 the Sports Authority of Andhra Pradesh has requested the respondent No.6 to remit Rs.10.00 lakhs towards bank guarantee amount and Rs.10.00 lakhs towards advance for power consumption at an early date.

xiv. By letter dated 9.1.2006 the re spondent No.6 has sent an account payee cheque dated 7.1.2006 for Rs.10.00 lakhs towards the advance for power consumption and bankers cheque dated 9.1.2006 for Rs.10.00 lakhs towards the bank guarantee amount for the 82nd Plenary Session of the All India Congress Committee at GMC Balayogi Athletics Stadium, Gachibowli. The said two cheques were deposited by SAAP on 10.1.2006.

xv. It is evident from the Note submitted on 16.1.2006 that M/s Rachnotsav, Event Manager, engaged by APCC has taken all precautions for the safe usage of Sports Complex by spreading Synthetic Carpet and placing wooden planks/iron sheets/ply over it, to prevent any damage that may be done due to erection of iron poles as suggested by M/s STUP Consultants Pvt. Ltd., Hyderabad.

xvi. On 17.1.2006 the Sports Authority of Andhra Pradesh has furnished information enclosing copies of the documents to the counsel for the petitioner.

xvii. APCC has taken all steps from Police Department and Fire Service Department.

xviii. The 82nd Plenary session of the All India Congress Committee was held from 21.1.2006 to 23.1.2006 in GMC Balayogi Athletics Stadium.

xix. From 1.12.2005 to 31.1.2006 the sporting activity in the Centre of Excellence in Badminton was shifted from Indoor Stadium, Gachibowli to Indoor Stadium, Yousufguda for continuity of training for 2 months i.e. December, 2005 and January, 2006. This was done keeping in view of the safety and security aspects related to VVIPs such Prime Minister, Union Ministers and Chief Ministers of States and many 'Z' category Security officials.

xx. By letter dated 25.1.2006 the Divisional Engineer, Electrical Operation, APCPDCL has addressed a letter to Respondent No.2 informing that the total consumption of power is at Rs.23,61,930/- and the consumption by APCC is at Rs.20,84,609/- from and out of the said amount of Rs.23,61,930/-

xxi. By letter dated 4.2.2006 the respondent No.2 requested the respondent No.6 to arrange payment of the bill for Rs.20,84,609/-.

xxii. The respondent No.6 has sent a cheque dated 8.2.2006 for Rs.20,84,609/-.

xxiii. The photos taken on 4.2.2006 and the newspaper publications i.e. The Hindu and Indian Express dated 5.2.2006 and 6.2.2006 clearly establish that no damage was caused to the Sports Infrastructure including the Synthetic track.

xxiv. By proceedings dated 16.2.2006 the respondent No.2 has accorded permission for payment of Rs.20,84,609/- to the Senior Accounts Officer, Operations Circle, Ranga Reddy (North), APCPDCL towards electricity charges of Gachibowli Sports complex (AICC Plenary electricity charges) for the month of January, 2006.

xxv. The total amount payable by APCC to Sports Authority of Andhra Pradesh for utilizing the Sports Complex for conducting the AICC plenary session in GMC Balayogi Athletics Stadium is at Rs.45,82,892/- as detailed in the statement of account filed herewith.

xxvi. On 11.2.2006 the Officers and Coaches deputed by the respondent No.2 to supervise the complex have submitted a report stating that the synthetic track is not damaged at any place as observed after the removal of Iron Poles, Ply/Iron sheets/Wooden planks and Synthetic Carpets.

xxvii. On 15.2.2006 Genl. Siddiqui, Commandor Joshi, Commdt. Agarwal, Col. M.P. Singh and others visited Sports Complex for conducting World Military Games in 2007 from 14.10.2007 to 21.10.2007 in Sports Complex, Gachibowli.

xxviii. The photos taken and the newspaper publications in The Hindu dated 5.2.2006 and in Indian Express dated 6.2.2006l will clearly show and establish that the Synthetic Track was not at all damaged.

xxix. The Vice Chairman and Managing Director has written a letter to the respondent No.6 to pay the balance amount of Rs.72,892/-.

The petitioner has filed rejoinder affidavit and reiterated the allegations contained in the preliminary affidavit. He has also alleged that if respondent No.2 had charged the prescribed amount, then the Sports Authority would have earned Rs.4,45,50,000/- for use of the stadium by respondent No.6 for 66 days.

We have carefully scrutinized the rival pleadings and gone through the documents produced by the parties. By letter dated 5.12.2005, respondent No.2 had informed the President of Andhra Pradesh Congress Committee, Hyderabad that charges for use of the stadium have been prescribed as per the recommendations of the expert committee constituted by the Sports Authority of Andhra Pradesh and called upon respondent No.6 to pay the amount. The rates of tariff specified in that letter were as under:

"**Tariff:**

Sports Complex, Gachibowli –maintenance charge Rs.6.75 lakhs per days.

GMC Balayogi Athletic Stadium - Rs.1.00 lac per day.

Indoor Stadium Rs.3.00 lacs per day

Hockey complex Rs.1.00 lac per day

Swimming pool Rs.1.00 lac per day

External parts Rs.0.75 lac per day

20% of maintenance charge per day for preparatory/dismantle period.

A.P. Congress Committee may make payment of Rs.25.0 lakhs to SAAP as lumpsum amount for allotment of entire sports complex.

Electrical charge @ Rs.16/- per unit on actual power consumption.

The monthly power charges of the sports complex, Gachibowli is Rs.3.00 lakhs on average. A.P.C.C. may meet expenditure towards electricity as claimed by electrical department from the date on which the stadia is taken over by APCC till handing over the sports complex to SAAP as was done for earlier events.

Municipal water charge @ Rs.35/- per kiloliters.

The monthly municipal water charges of the sports complex, Gachibwooli is Rs.2.00 laksh on average. A.P.C.C. may meet the expenditure of municipal water charges as claimed by water works department from the date on which the stadia is taken over by APCC till handing over the sports complex to SAAP as was done for earlier events.

Indoor Stadium – A/C charge – Rs.1.20 laksh for 6 hrs. – Rs.0.10 lakh per extra one hour.

Tower light charge @ Rs.14,000/- per hour – GMCB Athletics Stadium.

Bank Guarantee for Rs.10.00 lakhs."

At the end of the session organized by respondent No.6, Sports Authority of Andhra Pradesh raised a bill of Rs.45,72,892/-. Learned counsel for respondents 1 and 2 says that immediately after receipt of communication dated 18.2.2006, respondent

No.6 paid Rs.45.00 lakhs and the balance amount of Rs.72,892/- has also been paid vide cheque No.673246 dated 21-02-2006.

Learned counsel for the petitioner could not point out any defect in the bill raised by respondent Nos.1 and 2 and the payment made by respondent No.6. Therefore, we do not find any valid ground or justification to hold that respondent Nos.1 and 2 had allotted G.M.C. Balayogi Statdium, Gachibowli to respondent No.6 without collecting the prescribed charges.

Learned counsel for the petitioner made strenuous efforts to persuade us to issue a mandamus to respondent Nos.1 and 2 to collect charges for the alleged damages caused to the synthetic track due to the non-sporting activities undertaken by respondent No.6, but we have not felt persuaded to accept his prayer because not an iota of evidence has been placed on the record of the writ petition to show that on account of the non-sporting activities undertaken by respondent No.6 between 21-01-2006 and 23-01-2006, synthetic track or any other part of the stadium had suffered material damage.

With the above observations, the writ petition is dismissed.

G.S.SINGHVI, CJ

G.BHAVANI PRASAD,J

17-04-2006

ks/vtv/GRR